

**TOWN OF ROCKY HILL  
PLANNING AND ZONING COMMISSION  
MEETING OF OCTOBER 15, 2014**

**CALL TO ORDER**

Chairman Desai called the Wednesday, October 15, 2014, meeting to order at 6:34 p.m. in the Town Council Room, Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Dimple Desai, Chairman  
Kevin Clements, Vice Chairman  
Victor Zarrilli, Secretary  
Carmen D'Agostino  
Giuseppe Aglieco

Alternates: William O'Sullivan (arrived at 6:36 p.m.)  
Arun Saluja

Also: Kimberley A. Ricci, Dir. Planning & Building/Asst. ZEO  
Morris Borea, Town Attorney  
Eileen A. Knapp, Recording Secretary

**1. PUBLIC HEARINGS**

A. Continued from October 1, 2014 proposed a Moratorium on all new multifamily development in excess of two family dwellings until the Plan of Conservation and Development Update, currently in process, is complete and/or there is a comprehensive review of the Town of Rocky Hill Zoning Regulations as they apply to multifamily development, the length of which is not to exceed two years from of date of publication, if acted upon in the affirmative, (impetus for Town Council's suggestion for this consideration; and compliance with Fair Housing Act);

The Commissioners seated for this public hearing are Chairman Desai, Commissioner Zarrilli, Commissioner O'Sullivan, Commissioner D'Agostino, and Commissioner Aglieco. Commissioner Aglieco said he was not present at the last meeting but he has reviewed the tape of the meeting and the working notes.

Town Attorney Morris Borea was present to answer any questions of the Commission. He said he recommends that if the Commission decides to adopt the moratorium, that it be limited to the least amount of time necessary to accomplish their objective and that there be an exemption for pending applications and that if an applicant felt the moratorium was in violation of State or Federal Law, they would be able to file a written request for an exemption from the moratorium. He also noted that any moratorium should not exceed a period of two years.

Commissioner Zarrilli wondered if they were addressing mixed-uses or just multifamily uses. Atty. Borea said the decision is up to the Commission. He said he thinks there is some misconception about the purpose of a moratorium. It has been state that there was a moratorium on multi-family housing in the 1980's and that Rocky Hill was still subject to that decision. Atty. Borea said that it would be illegal to have a moratorium that lasts forever. He said he thinks the issue at hand is allowing mixed uses with a multi-family component. If the Commission decides they want to regulate multi-family uses in Rocky Hill, it should be done by creating Regulations and standards, not through an indefinite moratorium.

### **Public Comment**

**Mr. Barry Goldberg of Regulatory Land Uses Consulting** addressed the Commission. He said multi-family housing was eradicated from Rocky Hill in 1980. All referenced to multi-family housing was removed from the Regulations in 1985. There has never been a moratorium on multi-family housing because it was removed from the Regulations and has never been added back as a permitted use. The only multi-family use allowed is age restricted. The Regulations clearly state that a use is prohibited if not clearly permitted. He said the decision to allow multi-family housing on Brook Street should never have been made because there are no applicable standards in the Town's Regulations. He said that decision was, in essence, spot zoning. Atty. Borea said he is not asking for the moratorium, that is coming from the Town Council. The Brook Street development and the West Street development were approved, so there are decisions out there that allow for multi-family use. These decisions were not appealed. Also, during the Brook Street discussions it was brought up that if there were no regulations for multi-family housing that could potentially violate Federal Law because the impact could be discriminatory. Barry said the decision they made in 1985 was to protect the Town from being overburdened by multi-family housing and the Commission does have the right to protect Rocky Hill from becoming the "Mecca" of multi-family housing.

**Mr. Tom Regan, Partner in the law firm of Brown, Rudnick, LLP , City Place One, Hartford** addressed the Commission on behalf of MR Rocky, LLC., who just purchased the former Ames Headquarters. They are asking the Commission not to enact the moratorium at this time and to allow them time to come in and talk about the plans they have for this site. This site has sat undeveloped for 10 years and his clients are very experienced mixed-use developers. The Town's own study suggested that this site would be appropriate for a mixed-use town center development. Any moratorium on multi-family housing could delay their project. If the Commission does decide to go forward with the moratorium, Atty. Regan asked that it be as short as possible. He noted that they can adopt regulations without having a moratorium.

**Ms. Krista Mariner of 58 Farms Village Road** addressed the Commission. She said it is frustrating when the previous Planning and Zoning Chairman, Barry Goldberg, who has 30 years of experience is not allowed to fully articulate what happened in the 1980's when the decision to prohibit multi-family housing was made. Rocky Hill is already the Mecca for multi-family housing. She would like more information about the reason for the Town Council's resolution suggesting the moratorium. She wonders if not including age-restricted housing in any proposed moratorium would be a violation of the Fair Housing Act.

**Ms. Marty Stiglich of 214 Woodfield Crossing** addressed the Commission. She said a moratorium is not the way to go. That is just going to postpone taking action. The issue of mixed-use needs to be addressed in the Regulations. This is a very hot topic in the country right now and it is the Commission's job to come up with the standards to allow for it in Rocky Hill in a manner which meets the Town's needs. Attorney Borea said the time frame of two years was included only to convey that this is, legally, the maximum amount of time he would recommend for a moratorium. The actual time of the moratorium is for the Commission to decide. He does believe there is a need for this Commission to consider creating and adopting standards for multi-family dwellings. Right now, there are no standards, which make it difficult to regulate the use.

Commissioner Zarrilli asked for more of an explanation of the moratorium process. Atty. Borea said the Commission would adopt a resolution for a moratorium, which would be published one week after the meeting. The appeal period would run for 15 days and then the moratorium would be in place. Any applications that came in after that, that included multi-family uses would be held in abeyance until the moratorium expires.

Commissioner Clements said the Commission asked for answers from the Town Council as to why they are asking for this moratorium. Mrs. Ricci said she has not received any response from the Town Council. He also said the decision to prohibit multi-family housing was made 30 years ago and times have changed. They are working on the POCD and that will be the vision for 2014. This is the chance for the public to attend and give their vision for the future. Rocky Hill has an aging population and they are going to be in need of affordable housing. Right now the trend for success for commercial developments is the inclusion of mixed-uses. He doesn't believe they should approve a moratorium.

Commissioner O'Sullivan said he agrees with Commissioner Clements. The vision in 1985 is not the same vision for 2014. Mixed-use developments are the new wave of construction right now and are a very attractive way to enhance a community. He agrees that they need to add more details to the multi-family use regulations and standards in the context of a mixed-use project. Commissioner O'Sullivan asked about the retro activeness of new regulations on applications that are submitted during the updating process. Atty. Borea said if they Commission does not adopt a moratorium and while they are working on new regulations, an application comes in for a multi-family or mixed-use, the current applications will apply. The Regulations cannot be retroactive to applications submitted during the update process. Commissioner O'Sullivan suggested creating an ambitious but realistic timetable to creating new regulations to address these issues involved in mixed-uses, while issuing a moratorium for that period of time.

**Town Attorney, Guy Scaife** addressed the Commission. He said he feels the Town Council wanted the Planning and Zoning Commission to keep in mind that they are in the process of updating the POCD that is more than 10 years old. They should realize that there are some weaknesses in the current Regulations and the Council is asking the Commission to be careful as they accept new projects. If the Commission does implement tighter controls, they will have the opportunity to direct the type of development they want here in Rocky Hill.

Attorney Regan said things have changed dramatically from the 1980's and there is a need for affordable multi-family housing, especially for the aging population. He asked that the Commission not approve the moratorium, but allow them time to work with staff to come up with an acceptable plan so their project is not delayed. He said in his experience moratoriums tend to last longer than what was initially intended.

Mr. Goldberg said regardless of the Commission's vision, they need to uphold the Regulations. It is hard to project your vision into concrete Regulations, which future Commissions will continue to interpret in the same way. He pointed out that in the beginning of the Regulations, under "Interpretation of Regulations" 1.4.1 it states, "Prohibited if not clearly permitted any use of land, building or structure not clearly permitted by these Regulations in the Zoning District is *prohibited*." Commissioner Clements said Regulations are made with the best of intentions but there is usually a difference in interpretation and Regulations are very often updated. They are currently working with the Consultant on the POCD update and that includes discussions about multi-family and mixed uses.

Mrs. Ricci read an opinion memo regarding this possible moratorium. The Commission has recently approved 3 multi-family complexes under the mixed-use Regulations. The interpretation by Zoning Enforcement Staff that multi-family housing could be a part of mixed-use development was never appealed to the Zoning Board of Appeals. This would have been the first step in exhausting administrative remedies prior to taking an appeal to the Court System. Mrs. Ricci said the Commission should take one of two actions so as not to appear discriminatory. They could deny the moratorium or they could set up a moratorium on multi-family housing as a component of a mixed-use development for a period of time while they create standards for this use. She is recommending that any moratorium not exceed a 6 month period.

Chairman Desai agreed there is a lot of confusion as far as multi-family uses in mixed-use developments, which needs to be addressed sooner than later. He agrees that it is an appropriate topic to address during the POCD update process. He suggested approving the moratorium but for a limited amount of time. Commissioner D'Agostino agreed with Chairman Desai and was also in favor of a short-term moratorium.

Mrs. Ricci said she feels that the Regulations addressing this issue would take about 6 months due to all the requirements involved, including having the language of the Regulation changes approved by all regional planning agencies. The moratorium could include language stating that if the Regulations are approved, the moratorium becomes null and void even if the 6 month period is not up.

Commissioner O'Sullivan asked if the Owner of the Ames property would be able to work around a 6 month moratorium on multi-family use. Atty. Regan said he would prefer that there not be a moratorium but didn't think a 6 month time period would greatly affect their submission of a site plan.

Ms. Krista Mariner urged the Commission not to adopt the moratorium. She doesn't think it would be legal.

**A MOTION was made by Commissioner Zarrilli to close the public hearing for a proposed Moratorium on all new multifamily development in excess of two family dwellings until the Plan of Conservation and Development Update, currently in process, is complete and/or there is a comprehensive review of the Town of Rocky Hill Zoning Regulations as they apply to multifamily development, the length of which is not to exceed two years from of date of publication, if acted upon in the affirmative, (impetus for Town Council's suggestion for this consideration; and compliance with Fair Housing Act). Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.**

## **2. PUBLIC**

No comment.

## **3. ADOPT THE AGENDA**

**A MOTION was made by Commissioner Zarrilli to adopt the Agenda. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.**

## **4. CONSENT AGENDA**

**A MOTION was made by Commissioner Zarrilli to adopt the Consent Agenda. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY. The following items were adopted on the Consent Agenda:**

- A. Minutes and Working Notes from September 17, 2014**
- B. Minutes and Working Notes from October 1, 2014**
- C. Extension Request for 12 months maximum, per Section 8.2.7 of the Rocky Hill Zoning Regulations, Rivers Edge, former Foundry;**

## **5. AGENDA ITEMS**

- A. Request for temporary handicapped accessible office trailer, JRK Realty, until January 15, 2015, during clubhouse/office renovations at 98 Cold Spring Road in an R-20 Residential Zoning District, ID# 16-307;**

**Ms. Billie Collins, Property Manager for JRK Realty** addressed the Commission. They have a trailer on site they have been using that they do not have a permit for. She is here to get permission for the location of this trailer at their site while they rehab their clubhouse. JRK recently purchased the development and they plan to upgrade the entire facility. This temporary trailer will house offices until January 15, 2015 during construction.

**Commissioner Comments/Questions**

Commissioner O'Sullivan asked if the trailer is situated in a parking lot. Ms. Collins said it is in the parking lot. She thought the site map was submitted but unfortunately it was not. Right now it is not being used.

Commissioner Zarrilli asked if they would be fencing in the trailer. Ms. Collins said she believes the trailer will be roped off and a handicap accessible ramp will be added.

Commissioner Aglieco asked if there are any other trailers on the site. Ms. Collins said no, but they do have 3 pods on site holding construction materials. Commissioner Aglieco asked about the duration of the construction. Ms. Collins said construction on the clubhouse should be completed by mid-January. The entire facility is being rehabbed and that may take 2 ½ years.

Commissioner Zarrilli asked if there are handicapped accessible parking spaces available. Ms. Collins said there are two spots at one end of the trailer.

Chairman Desai said they really need to have a site plan submitted. Ms. Ricci suggested making it a condition of approval if the Commission wanted to approve the application tonight.

**A MOTION was made by Commissioner Zarrilli to approve the Request for temporary handicapped accessible office trailer, JRK Realty, until January 15, 2015, during clubhouse/office renovations at 98 Cold Spring Road in an R-20 Residential Zoning District, ID# 16-307, including all staff comments. Seconded by Commissioner O'Sullivan.** Commissioner O'Sullivan said he was concerned that the Applicant did not submit a site plan. Commissioner Zarrilli said he believes that would be included in the Staff Comments for this Application. Ms. Ricci said she also would include in the Staff Comments that the trailer must be removed on or before January 15, 2015. She will also note that any trailers on site cannot block handicap parking spaces. **All were in favor, MOTION CARRIED UNANIMOUSLY.**

**B. Remand of zoning appeal, re: Great Meadows Conservation Trust, Inc. v. Planning and Zoning Commission of the Town of Rocky Hill. Clarification of applicability of section 5.2.5.A of the Rocky Hill zoning regulations to the subject Meadow Properties Project;**

Mrs. Ricci said the Town Attorney asked that this item be tabled until next month's meeting. There will be a hearing next week with all three Attorneys involved because there is a disagreement as to exactly what the remand is for.

**A MOTION was made by Commissioner Zarrilli to table the Remand of zoning appeal, re: Great Meadows Conservation Trust, Inc. v. Planning and Zoning Commission of the Town of Rocky Hill. Clarification of applicability of section 5.2.5.A of the Rocky Hill zoning regulations to the subject Meadow Properties Project until the next meeting. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.**

**C. Continued from October 1, 2014 proposed a Moratorium on all new multifamily development in excess of two family dwellings until the Plan of Conservation and Development Update, currently in process, is complete**

**and/or there is a comprehensive review of the Town of Rocky Hill Zoning Regulations as they apply to multifamily development, the length of which is not to exceed two years from of date of publication, if acted upon in the affirmative, (impetus for Town Council's suggestion for this consideration; and compliance with Fair Housing Act);**

**A MOTION was made by Commissioner Zarrilli to approve the proposed Moratorium on all new multifamily development in excess of two family dwellings for a period not to exceed 6 months or until the time when new Zoning Regulations as they apply to multifamily development are adopted.** Commissioner Zarrilli said he believes that this Commission should draft Regulations either for or against multi-family housing using clear definitions. They should include specific standards and criteria to create housing opportunities for all people. **Seconded by Commissioner D'Agostino.** Commissioner O'Sullivan said he hopes the moratorium will not be an excuse to delay taking action in the form of creating new Regulations for multi-family housing. He feels they should act on this as quickly as possible. Chairman Desai asked staff to provide a schedule going forward of steps they can take to get these Regulations amended. Commissioner O'Sullivan said he submitted a proposed definition of mixed use and he said he would send that definition to all the Commissioners.

**A FRIENDLY AMENDMENT was made by Commissioner O'Sullivan that if this moratorium is deemed to be in violation of Federal or State Law, applicants may request an exemption in writing to the Commission and also that any pending applications for multifamily developments in excess of two family dwellings be exempt from the moratorium. Friendly Amendment accepted.**

**All were in favor, MOTION CARRIED UNANIMOUSLY.**

## **6. ANY OTHER BUSINESS**

Commissioner O'Sullivan read into the record his suggested definition of mixed use as follows:

"A combination of

1. A commercial use or uses permitted in and meeting the applicable standards of the underlying district, which use or uses shall include retail.
2. Residential Use
3. Recreational, cultural, civic and/or educational uses not limited to occupants and guests of the residential component.

All categories of use shall be substantial elements of the overall project, shall be complimentary and shall be physically and functionally integrated. The project shall be designed to facilitate and encourage internal and external pedestrian access to the extent reasonable practicable."

**A MOTION was made by Commissioner Zarrilli to approve the Planimetrics Invoice # 1037 in the amount of \$4,000. Seconded by Commissioner O'Sullivan. All were in favor, MOTION CARRIED UNANIMOUSLY.**

**7. ADJOURN**

**A MOTION was made by Commissioner Zarrilli to adjourn. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.**

Meeting adjourned at 8:23 p.m.

Respectfully submitted,

Eileen A. Knapp  
Recording Secretary